

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Shadeed Barnett,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:09cv693
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Chillicothe Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on December 2, 2010 a Report and Recommendation (Doc. 21). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 25).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to claims alleged in Grounds One and Two of the petition, which this Court has concluded are waived and thus barred from review on procedural grounds, because "jurists of reason will not find it debatable as to whether this Court is correct in its procedural rulings" under the first prong of the applicable two-part

standard enunciated by the Supreme Court in *Slack v. McDonnell*, 529 U.S. 473, 484-85 (2000).

A certificate of appealability will not issue with respect to the state-law claim alleged in Ground Two of the petition, as well as the sufficiency-of-evidence claim alleged in Ground Three which was addressed on the merits herein, because petitioner has failed to make a substantial showing of the denial of a constitutional right in those grounds for relief. *See* 28 U.S.C. § 2253(c); Fed. R. App. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949,952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court